

TITLE III: Land Use Code and Regulations

Chapter VI: Site Plan Review Regulations

Adopted August 22, 1995

Amended March 26, 1996

Amended November 18, 1997

Amended August 6, 1998

Amended February 9, 1999

Amended October 12, 1999

Amended December 11, 2001

Amended June 11, 2002

Amended March 18, 2003

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SECTION 1.00: GENERAL PROVISIONS

1.01 PURPOSE. The general purpose of this regulation is to guide the character of non-residential and multi-family development, re-development, expansion, and change of use in order to implement the policies of the Master Plan, providing for the public health, safety, convenience, prosperity and general welfare. Throughout this Regulation, the Board seeks to balance the process of growth, development and change with the need to preserve and enhance those qualities, which make Newmarket a safe and desirable place to live, work and visit. In keeping with this general purpose, the following are specific objectives:

- (A) Promote the harmonious and aesthetically pleasing development of the Town, ensuring visual harmony of the sites with their surrounding neighborhoods, establishing site designs consistent with and/or complimentary to traditional New England designs, providing adequate green space and open space, providing for proper building location to ensure adequate sunlight and air circulation, and protecting the natural beauty of the Town;
- (B) Enhance the downtown village area and waterfront by providing an appropriate mix of uses, improving appearance, maintaining traditional New England character, enhancing pedestrian orientation, and promoting mixed use mill re-development;
- (C) Protect the public from undue hazards, disturbances, and nuisances;
- (D) Promote commercial development, including opportunity for home-based work, to broaden the tax base and employ residents;
- (E) Protect environmental quality by means such as controlling erosion and site run-off;
- (F) Ensure that land is of sufficient character to be used for building purposes without danger to health, and additionally ensuring that development does not exceed the capability of the land to safely provide on-site water supply and sewage disposal in areas not served by municipal water and sewer systems;
- (G) Guard against such conditions as would involve danger or injury to health, safety, or prosperity by reason any one or more of the following:
 - (1) inadequate drainage
 - (2) conditions conducive to flooding
 - (3) inadequate protection for the quality of groundwater
 - (4) undesirable and preventable elements of pollution such as noise, smoke, soot, particulates, or any other discharge into the environment which might prove harmful to persons, structures, or adjacent or neighboring properties
 - (5) inadequate provision of fire safety, prevention and control;

(H) Facilitate adequate provision of public facilities, utilities and services; and

(I) Provide for adequate transportation by requiring appropriate provision and arrangement of roads, driveways, sidewalks, traffic aisles, parking, loading areas, bicycle facilities, emergency vehicle accesses, transit amenities, and off-site connections.

1.02 AUTHORITY. Under authority of RSA 674:43 and authorization from Town Meeting, as amended, the Planning Board repeals the previous Site Plan Review Regulations and hereby adopts this new Regulation on August 22, 1995.

1.03 DEFINITIONS. Definitions shall be those provided in the Newmarket Zoning Ordinance adopted February 14, 1996 in Zoning Ordinance §1.11, and the additional definition as follows:

Disturbed Area. The area of land covered by parking areas, driveways, sidewalks, and other such paved or gravel areas. It does not include area, which is vegetated or covered by a building.

1.04 COMMUNICATIONS BETWEEN TOWN AND APPLICANT. There are many people involved in the processing of each application, and communication problems develop quickly if great care is not taken from the start. To prevent communication problems from developing, it is important for both the Town and the applicant to designate one person each to coordinate all communications. This prevents repetition of questions, prevents two people from giving different answers to the same question, and should help to keep interpretation of opinions consistent.

(A) Applicant's Authorized Representative. The application form shall designate one person to act as the "authorized representative." All communication to the applicant shall be made through this person, and this person shall be present at all meetings with the Board. In the text of these Regulations, references to the applicant shall also imply the authorized representative.

(B) Town.

- (1) All communications to the Town shall be directed to the Planning Board Secretary unless otherwise directed by the Chairman of the Board. This may be more likely during larger applications, such as when an engineer reviewing the road design needs to talk to the design engineer to clarify issues.
- (2) Individual Board members must exercise care when discussing application matters with the applicant, abutters, or other parties outside the forum of the Board's meetings. Care must be taken to keep an open mind throughout the entire process, not drawing conclusions until all relevant information has been received at the public hearing. Additionally, Board members should tell the Board and the public the substance of any information they have received from the applicant, abutters or other parties so that all can benefit from this knowledge, and to provide an opportunity to challenge any information provided.

1.05 APPLICABILITY. There are three possible applications of this Regulation to the development or change of a non-residential or multi-family site. The following criteria specify the level of review necessary:

- (A) Not Applicable. Upon receipt of a written letter of acknowledgment from the Code Enforcement Officer, this Regulation is not applicable for the following:
 - (1) Temporary Events which require no permanent alterations to the site and which function safely within the approved configuration of the site, as determined by the Code Enforcement Officer;
 - (2) Special Events approved by the Town Council;
 - (3) Home Occupations;
 - (4) Within the M-2 district, change of use, from one non-residential use to another non-residential use, which involves not more than 500 square feet of gross floor space; and
 - (5) Commercial excavations as regulated pursuant to RSA 155-E.
- (B) Minor Review. A Minor Review by the Planning Board shall be required for the following:
 - (1) change of use of a non-residential site, for which no change in floor area is

proposed, and which either: maintains or decreases the intensity of use on the site with respect to parking demand and traffic generation; or for a site with 2,000 square feet or less of gross floor area;

- (2) expansion of non-residential floor space by 500 square feet or less, with no change of use;
 - (3) within the M-2 district, any change of use of an existing non-residential building which will be accompanied by a renovation of the facade of the building which, in the opinion of the Planning Board, will enhance its aesthetic contribution to the heritage and visual qualities of the village;
 - (4) site improvement alterations without new development, re-development, expansion or change of use; or
 - (5) establishment of a bed & breakfast.
- (C) Major Review. A Major Review by the Planning Board shall be required for the following:
- (1) establishment of non-residential uses where no non-residential use currently exists;
 - (2) establishment of multi-family use where no multi-family use currently exists;
 - (3) any other development, re-development, change of use or expansion of a multi-family or non-residential site, and not addressed in the §1.05(A) or (B).

1.06 ABOUT TOWN REGULATIONS.

- (A) Related Town Codes. The Town has other regulations, which may affect an application. The following is a list of related codes:

Chapter I:	Planning Board Bylaws
Chapter II:	Conservation Commission Bylaws
Chapter III:	Zoning Board of Adjustment Bylaws
Chapter IV:	Zoning Ordinance
Chapter V:	Subdivision Regulations
Chapter VI:	Site Plan Review Regulations
Chapter VII:	Excavation Regulations

- (B) Organization and Cross-references. To fully understand this code, it is important to

understand how this Regulation is organized and cross-referenced.

(1) Organization of this Regulation.

- (a) Sections. This Regulation is divided into six Sections. Each Section is simply a grouping of related issues or requirements, and readers should identify the article in which an answer is likely to be found. The six sections are:

§1.00 General Provisions.

§2.00 Application Procedures.

§3.00 Design Standards.

§4.00 Plat Standards.

§5.00 Administration.

§6.00 Application Forms and Checklists.

- (b) Sub-sections. Each Section is divided into sub-sections, each of which may be further divided as needed. It is easiest to use the **Table of Contents** to locate the major sub-sections.

- (2) Cross-referencing System. Within this Regulation, there are many references to other Sections of this code. These cross-references are provided to help the reader find needed information, and to inform the reader of related provisions. The reference for this Section is written as follows:

§1.00

The symbol "§" means section. In all cases, the information following the "§" starts with the Section, then the sub-sections in descending order. The reference for this subsection is written as follows:

§1.06(B)(2)

The number to the left of the decimal point refers to the Section, the number following the decimal point is the sub-section, and so forth. Additional levels of hierarchy would be shown as follows:

§1.01(B)(3)(c)[2][e]

The reader should note that only the first letter is capitalized, and that the rounded parentheses are used before the square parentheses. Also, the text of each level is indented farther than the previous level.

- (C) The term "shall" requires a mandatory action in all cases, while "should" implies that

the action is appropriate in most cases. The Board is responsible for deciding, on a case-by-case basis, how to apply the "should" provisions.

- (D) **State Laws.** State laws are referenced frequently in this Regulation. In New Hampshire, State laws are known as Revised Statutes Annotated, which is abbreviated as, "RSA," and are followed by the appropriate chapter and section references.

1.07 GENERAL GUIDANCE. The following advice is offered to assist the applicant, especially if the applicant is unfamiliar with land development processes.

- (A) All applicants will need to hire professionals to prepare part or all of the application. A NH Licensed Land Surveyor and/or licensed Professional Engineer are required. In some cases, other specialists will be needed, possibly including an attorney, a soil scientist, or others. While such assistance does cost money, their skills and abilities are essential to ensure that the Town and applicant have sound information on which to base their decisions.
- (B) The Board is concerned about processing all applications fairly and quickly. To accomplish this, the applicant shares certain responsibilities. The applicant must be properly prepared. This includes reading this Regulations to understand the issues that must be addressed, and includes dealing with all the significant issues up front. Incomplete submittals, or failure to properly address issues will result in unnecessary delays in obtaining a final decision from the Board.
- (C) The application process is similar for all applications, although the amount of work and time to obtain an approval vary widely.
- (1) All applications follow this basic process:
- **Preparation.** The applicant prepares the application, usually done by hired professionals. This may involve some discussion with the Board through preliminary conceptual consultation or design review meetings. (note: amended 11/18/97)
 - **Application Acceptance.** Upon submittal of the application materials to the Town, the application is placed on the next available Planning Board agenda for consideration. By State law, there is a minimum lead-time of 15 days.
 - **Public Hearing.** All applications will have a public hearing. This is the official opportunity for the public to ask questions about the application, to raise issues, offer suggestions, or indicate their support or opposition. The Hearing may be interspersed with

periods of deliberation by the Board, and may be continued to future dates.

- Decision. In the end, the Board must decide whether to approve or deny the application. In the majority of cases, the Board approves the application with conditions, which means that there are additional administrative or technical requirements, which must be satisfied to obtain the full approval.

- (2) Timing. Perhaps the most commonly asked question about an application to a planning board is "how long will it take?" There is no standard answer. At a minimum, there must be a meeting with the Board, and this alone requires at least 15 days lead-time. Simple applications are often approved at a single meeting, while more complex applications may take two or three months to complete. However, this general answer is all based on the assumptions that the applicant is properly prepared, and that no unusual circumstances arise. Without the applicant's consent, however, it is very unlikely that an application process can take longer than six months.

SECTION 2.00: APPLICATION PROCESS

2.01 PRELIMINARY CONCEPTUAL CONSULTATION. This meeting shall be directed at a review of the basic concept of the proposal and suggestions that might be of assistance in resolving problems with meeting requirements during final consideration. The Board and applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the Master Plan. The presentation to the Board of new surveys, engineering plans or similar materials shall not be allowed under this process, so the Chairman must be careful to keep these discussions at a general level. Typically, maps from the Master Plan, tax maps, county soil survey maps and the like are acceptable levels of generality upon which to base these discussions. Such consultation shall not bind either the applicant or the Board, and statements made by Board members shall not be the basis for disqualifying said members or invalidating any action taken. Such discussion may occur without the necessity of giving formal public notice, but such discussions may occur only at formal meetings of the Board. Preliminary conceptual consultation meetings are strictly optional to the applicant.

2.02 DESIGN REVIEW. The Board and applicant may engage in non-binding discussions beyond conceptual and general discussions, addressing more specific design, planning and engineering details, provided that the design review may proceed only after formal public notice is provided. Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action taken. The applicant shall pay appropriate public notice fees as specified in §2.05(B), and shall provide all required materials and information required for public notice per §2.09 and §2.10. Design Review meetings are strictly optional to the applicant, but such meetings can be helpful in identifying and resolving problems in an application prior to major design investments by the applicant.

2.03 MINOR REVIEW. The application for a Minor Review shall be made to the Board, and shall follow the process specified in §2.05 through §2.18 of this Regulation. Approved Minor Review plans shall not be recorded at the Rockingham County Registry of Deeds. The following shall be provided to the Board:

(A) Completed application, which shall contain the following:

- (1) Correctly completed application form, signed by the property owner(s).
- (2) Abutters list, with: correct abutters, dated within five days of submittal, and signed by preparer, with accompanying adhesive mailing labels.
- (3) Payment of fees for administration and public notice.

- (4) One copy of a boundary survey which meets the requirements of §4.10(A)(1) and (2). The abutters shall be revised by the applicant if abutters are not shown on the plan, or if they have changed since the survey was originally prepared.
- (5) Three copies of a Site Sketch, which complies with the following standards:
 - (a) drawn roughly to scale at 1" equals 20'. A tape measure should be used to measure important distances, and these measurements should be labeled on the site sketch.
 - (b) shows key elements of the site, including buildings, setback lines, parking spaces, driveways, traffic aisles, pedestrian, bicycle and wheelchair facilities, drainage facilities, surface waters, wells, septic systems, and other relevant information.
 - (c) clearly depicts the changes proposed, including changes to site improvements.
- (6) Documentation that the following applications and correspondence have been submitted:
 - (a) letters to the appropriate Town officials regarding local permits and reviews for issues including but not limited to driveways, water and sewer systems, and safety review.
 - (b) copies of applications for State permits including but not limited to wetlands, septic, driveway, site specific, and underground storage tank.
- (7) List uses on the site, along with data about the amount of each activity (floor area, seating capacity, etc.).
- (8) The following additional information shall be required for an application regarding a telecommunications facility:
 - (a) Written proof that a proposed use/facility complies with FCC regulations on radio frequency (RF) exposure guidelines, and FAA regulations on tower lighting.
 - (b) Written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable

FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Board prior to the beginning of the federal thirty (30) day comment period, and the Town's site review process, shall become part of the application requirements.

- (c) Provide an inventory of existing towers that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, height, design of each towers, as well as economic and technological feasibility for co-locations on the inventoried towers.

If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing permitted tower or structure can accommodate the applicant's proposed antenna. This evidence shall consist of one or more of the following:

- [1] Substantial evidence that no existing permitted towers or structures are located within the geographic area required to meet the applicant's engineering requirements, provided that a description of the geographic area required is also submitted.
- [2] Substantial evidence that existing permitted towers are not of sufficient height to meet the applicant's engineering requirements, and why.
- [3] Substantial evidence that the existing permitted towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- [4] Substantial evidence that applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing permitted towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- [5] Substantial evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing permitted tower or structure are unreasonable. Costs exceeding new tower development are presumed to be

unreasonable.

[6] Substantial evidence that the applicant can demonstrate other limiting factors that render existing permitted towers and structures unsuitable.

- (d) The applicant proposing to build a new tower shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall become a Condition to any Approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the Town and is grounds for denial.
 - (e) The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with NH RSA 676:4(g).
 - (f) Each applicant for a tower, monopole, or alternative structure shall submit a design certified by a New Hampshire Licensed engineer that the structure has been engineered to accommodate the maximum number and type of all compatible telecommunication media antenna.
- (B) The Board will generally use the Checklist for Application Completeness; Minor Review Application, provided in §6.00, to ensure completeness prior to accepting the application. The applicant is encouraged to use this checklist to ensure that the application is complete prior to submittal.
- (C) Time and budget permitting, the Board will generally have a written review of the application prepared by a professional planner. Where possible, this written review should be prepared and available one week prior to the meeting at which application acceptance will be considered. The review will address both application completeness and compliance with applicable laws, regulations and ordinances. Additional reviews may be prepared in the case of applications, which take more than one meeting. Applicants may pick up a copy of the written review at the Town Offices as soon as it is available to the Board.

- (D) Board members should visit the site prior to the meeting to familiarize themselves with the site. The Board may, by motion, require a site visit prior to application approval.

2.04 MAJOR REVIEW. The application for a Major Review shall be made to the Board, and shall follow the process specified in §2.05 through §2.18 of this Regulation. Approved Major Review plans shall be signed and recorded at the Rockingham County Registry of Deeds. The following shall be provided to the Board:

- (A) Completed application, which shall contain the following:
 - (1) Correctly completed application form, signed by the owner.
 - (2) Abutters list, with: correct abutters, dated within five days of submittal, and signed by preparer, with accompanying adhesive mailing labels.
 - (3) Payment of fees for administration and public notice.
 - (4) Three paper copies of all plans, complying with all requirements of §4.00.
 - (5) Documentation that the following applications and correspondence have been submitted:
 - (a) letters to the appropriate Town officials regarding local permits and reviews for issues including but not limited to driveways, water and sewer systems, and safety review.
 - (b) copies of applications for State permits including but not limited to wetlands, septic, driveway, site specific, and underground storage tank.
 - (6) The following additional information shall be required for an application regarding a telecommunications facility:
 - (a) Written proof that a proposed use/facility complies with FCC regulations on radio frequency (RF) exposure guidelines, and FAA regulations on tower lighting.
 - (b) Written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC

rules and NEPA, submission of the EA or EIS to the Board prior to the beginning of the federal thirty (30) day comment period, and the Town's site review process, shall become part of the application requirements.

- (c) Provide an inventory of existing towers that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, height, design of each towers, as well as economic and technological feasibility for co-locations on the inventoried towers.

If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing permitted tower or structure can accommodate the applicant's proposed antenna. This evidence shall consist of one or more of the following:

- [1] Substantial evidence that no existing permitted towers or structures are located within the geographic area required to meet the applicant's engineering requirements, provided that a description of the geographic area required is also submitted.
- [2] Substantial evidence that existing permitted towers are not of sufficient height to meet the applicant's engineering requirements, and why.
- [3] Substantial evidence that the existing permitted towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- [4] Substantial evidence that applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing permitted towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- [5] Substantial evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing permitted tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

- [6] Substantial evidence that the applicant can demonstrate other limiting factors that render existing permitted towers and structures unsuitable.
- (d) The applicant proposing to build a new tower shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall become a Condition to any Approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the Town and is grounds for denial.
- (e) The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with NH RSA 676:4(g).
- (f) Each applicant for a tower, monopole, or alternative structure shall submit a design certified by a New Hampshire Licensed engineer that the structure has been engineered to accommodate the maximum number and type of all compatible telecommunication media antenna.
- (B) The Board will generally use the Checklist for Application Completeness; Major Review Application, provided in §6.00, to ensure completeness prior to accepting the application. The applicant is encouraged to use this checklist to ensure that the application is complete prior to submittal.
- (C) Time and budget permitting, the Board will generally have written reviews of the application prepared by a professional planner and a Professional (Civil) Engineer. Where possible, these written reviews should be prepared and available one week prior to the meeting at which application acceptance will be considered. The reviews will address both application completeness and compliance with applicable laws, regulations and ordinances. Additional reviews may be prepared in the case of applications, which take more than one meeting. Applicants may pick up copies of the written reviews at the Town Offices as soon as they are available to the Board.
- (D) Board members should visit the site prior to the meeting to familiarize themselves

with the site. The Board may, by motion, require a site visit prior to application approval.

2.05 FEES. In accordance with RSA 676:4,I(g) and RSA 674:44,V, the applicant shall pay the following fees to compensate the Town for its expenses in processing, noticing and reviewing each application:

(A) Administration: (**Amended October, 1999, December 2003**)

- (1) Minor Review: \$125
- (2) Major Review, one or more of the following shall apply:
 - (a) Residential Base Fee \$250
Per Unit \$125
 - (b) Commercial Base Fee \$250
Plus per square foot of floor space-
 - 0-1,000 \$0.12 per sq. ft.
 - 1,001-5,000 \$0.10 per sq. ft.
 - 5,001-10,000 \$0.08 per sq. ft.
 - 10,001+ \$0.05 per sq. ft.
 - (c) Industrial Base Fee \$250
Plus per square foot of floor space-
 - 0-1,000 \$0.06 per sq. ft.
 - 1,001-5,000 \$0.05 per sq. ft.
 - 5,001-10,000 \$0.04 per sq. ft.
 - 10,001+ \$0.03 per sq. ft.

(B) Public Notice:

- (1) \$40.00 per newspaper notice; plus
- (2) \$7.00 per abutter or other party notified.

(C) Recording: The applicant shall reimburse the Town the cost of recording at the Rockingham County Registry of Deeds, with specific amounts as set by the Register of Deeds.

(D) Other costs incurred by the Board in reviewing the application, as limited in §5.02, shall be passed through to the applicant by the Board unless specifically waived.

2.06 COMPLETE APPLICATION. The applicant must provide a complete application in order for the Board to have authority to approve the application, per RSA 676:4,I(b). Specific requirements are listed in §2.03 and §2.04. In addition to the information that the applicant provides, an application shall not be considered complete without a written review from the Code Enforcement Officer detailing compliance issues with the Zoning Ordinance. Applications, which appear complete, shall be scheduled on the next available Board agenda for consideration.

2.07 SUBMITTAL OF APPLICATION MATERIALS. All materials to be submitted to the Board for consideration shall be submitted prior to the meeting so that Board members, the public, and staff may have sufficient opportunity to review the application without unnecessarily rushing the review and/or delaying the proceedings of the meeting. The following shall apply:

- (A) Application Acceptance. In accordance with RSA 676:4,I(b), all materials required to constitute a complete application shall be submitted to the Board at least 15 days prior to the meeting at which it will be considered for application acceptance, except that this shall be increased to 21 days when it is determined that there may be a potential regional impact per §2.10.
- (B) Other Public Hearings. New materials shall be submitted to the Board at least 14 days prior to a meeting when a new public notice is required.
- (C) Continued Meetings. When consideration of an application is continued and new information is required, the Board should specify the deadline for filing this new information in the motion to continue the meeting. Lacking such direction by the Board, all submittals should be provided not less than one day prior to the meeting.

2.08 APPLICATION FOR OTHER PERMITS/APPROVALS. The Board shall not grant a final approval to an application until all other government permits and approvals are obtained. The only exception to this requirement shall be when State or Federal permits require prior local approval. Applicants are advised to apply early for these other approvals to avoid unnecessary delays in obtaining final Town approval.

2.09 PUBLIC NOTICE. Per RSA 676:4,I(d), public notice shall be required for all applications. The public notice shall identify the property owner, the location, and a general description of the proposal.

(A) Public notice shall be required for the following:

- (1) design review meetings;

- (2) meetings at which an application is considered for acceptance; and
 - (3) meetings at which a public hearing is conducted.
- (B) Public notice shall be mailed to the applicant, the applicant's authorized representative, any professional (surveyor, engineer, architect, soil scientist) whose stamp and signature appear on any of the plans or other materials submitted as part of the application package, and each abutter at least 10 days prior to the meeting for which the notice is required. Such notification shall be mailed by certified mail.
- (1) Using the Abutters List form provided in §6.00 of this Regulation, the applicant shall prepare a list of abutters using Town records no sooner than 5 days prior to the submittal of the application; and
 - (2) The applicant shall provide an adhesive mailing label for each party on the abutters list, including the applicant and authorized representative. The labels shall be no larger than 1" by 2.75" in size.
- (C) Public notice shall be posted at the Town Offices at least 10 days prior to the meeting.
- (D) Public notice shall be published in a newspaper of general circulation. This notice shall be sent to the newspaper at least 10 days prior to the meeting.
- (E) Continuation of a meeting or public hearing shall not require new public notice provided that, at the prior meeting or hearing, the Board shall state the location, date, and time at which the continued session shall resume per RSA 676:4,I(d). The deadline for the applicant's submittal of new or updated materials should also be specified.

2.10 REGIONAL NOTICE. In accordance with RSA 36:54-58, applications which might have a regional impact shall require additional public notices and additional posting time.

- (A) Determination of potential regional impact shall be found only for applications which qualify for Major Review and which also meet any of the following criteria:
- (1) Any portion of the property is located within 500 feet of the border of the Town of Newmarket;
 - (2) The application involves 10,000 square feet or more of new non-residential floor space;
 - (3) The proposal involves 20 or more residential units;

(4) The proposal involves property located on the shore of Great Bay or the Lamprey River; or

(5) other as the Board may reasonably determine.

(B) Notice shall be sent by certified mail 14 days in advance of the scheduled public hearing to the Strafford Regional Planning Commission and/or the Rockingham Planning Commission, and to each town reasonably likely to be affected, with each governmental entity to be considered an abutter for purposes of listing on the Abutters List, offering testimony, and computing public notice fees.

2.11 APPLICATION ACCEPTANCE. Before an application is reviewed by the Board, it must be accepted by a formal vote of the Board. The applicant shall attend this meeting to ensure that questions can be answered and issues clarified as necessary. Per RSA 676:4,I(b), the Board shall vote to accept the application only upon determination that the application is complete per this Regulation. Upon acceptance, review of the application may proceed. If an application is not accepted, the Board may proceed with Design Review discussions per §2.02. The Design Review meeting may be continued to another date and time for Application Acceptance without further public notice.

2.12 APPLICANT'S PRESENTATION. Following application acceptance, the applicant shall make a brief, general presentation to the Board and audience. This presentation should include a brief description of the proposed project and a general description of the design, layout, and so forth, to ensure general familiarity with the application. The applicant should also identify specific issues that they would like to discuss in more detail during deliberation. The applicant is solely responsible for bringing any audio-visual materials or equipment needed. The Chairman shall have sole authority to limit the time taken for this presentation to keep the meeting moving, and applicants should plan on 10 minutes or less for most applications.

2.13 PUBLIC HEARING. The Board shall open a public hearing following application acceptance and the applicant's presentation. The purpose shall be to solicit public input, comments, questions and concerns. The Chairman may temporarily suspend public comment during the public hearing so that the Board may deliberate, vote on waivers, and so forth. Before acting on intermediate issues such as waivers, the Board should solicit public input specific to the action beforehand to ensure that the Board has received all relevant information. The public hearing may be continued if additional meetings are necessary, provided that the Board follows the continuation procedures specified in §2.09(E). Only when all pertinent, new public input is complete shall the Chairman close the public hearing. The applicant shall be responsible for attending the public hearing, including all continuations, to ensure that questions can be answered and issues clarified as needed.

2.14 DELIBERATION. The Board shall deliberate as necessary to make its decisions. The deliberation does not necessarily follow the public hearing, and will likely be interspersed with the public hearing. This is the appropriate forum for the applicant and Board to discuss specific issues.

2.15 DECISION. Pursuant to RSA 676:4,I(c), the Board shall issue a decision within 90 days of application acceptance, subject to time extensions as per RSA 676:4,I(f). Applications, which are not accepted, require no decision. The Board must approve, conditionally approve, or disapprove the application as follows:

- (A) Approval. The Board shall grant approval to an application when the application fully complies with the standards and processes of this Regulation and other applicable laws.
- (B) Conditional Approval. The Board may grant conditional approval to an application when minor additional action by the applicant will bring the application into full compliance for approval. This may include payment of fees, minor changes in design, and other matters, subject to the requirements of RSA 676:4,I(i):
 - (1) Minor plan changes, whether or not imposed by the Board as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or
 - (2) Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board; or
 - (3) Conditions with regard to the applicant's possession of permits and approvals granted by other governmental units.
- (C) Disapproval. The Board shall disapprove an application when it fails to comply with the standards and/or procedures of this Regulation, for failure to meet reasonable deadlines established by the Board, or for failure to pay fees.
 - (1) If the Board includes the phrase, "without prejudice" in the motion to disapprove, it signifies that the application was denied solely for procedural reasons, and that it may be re-submitted to the Board at a later date without design changes, but shall be subject to the codes in effect at the time of the new application. Applications disapproved without this stipulation shall not be considered again by the Board unless the applicant demonstrates that there have been design changes or changes in regulations affecting the application.

- (2) Conditional Approvals shall be valid for a period of not more than six months. If the conditions of the approval have not been satisfied within this time, the conditional approval shall automatically lapse. The Planning Board may grant a single six-month extension to accommodate unusual circumstances, but the applicant is required to provide a written request for extension to the Board before the expiration date. The Board shall consider the request at its next regular meeting, and such action shall not require a public hearing.

2.16 NOTICE OF DECISION. As required by RSA 676:3, within 72 hours of the meeting the Board shall issue a Notice of Decision which states the final decision reached by the Board regarding the application.

- (A) In the case of a conditional approval, the Notice of Decision shall state all conditions to be met for final approval.

- (1) In the event that the conditions are satisfied, the Board shall issue a supplemental Notice of Decision stating that the application is approved since all conditions have been satisfied, and shall sign and record the plat(s) if applicable.

- (2) In the event that the conditions are not satisfied, the Board shall issue a supplemental Notice of Decision stating that the application is denied for failure to comply with the conditions of approval in a timely manner.

- (B) In the case of a disapproval, the Notice of Decision shall state the reasons for denial as required by RSA 676:4,I(h) and RSA 676:3,I.

2.17 APPEALS. Any person aggrieved by any decision made in the course of applications pursuant to this chapter may appeal as follows:

- (A) Decisions by the Planning Board based solely upon interpretation of the Zoning Ordinance may be appealed to the Zoning Board of Adjustment or Rockingham County Superior Court, as determined by the provisions of RSA 676:5,III. Appeals to the ZBA must be filed within 20 days after the filing of the Notice of Decision in the Town Offices. Appeals made to Superior Court must be filed as specified in §2.17(B).

- (B) All other decisions by the Planning Board may be appealed to Rockingham County Superior Court per the provisions of RSA 677:15. The appeal shall be presented to the Court within 30 days after the filing of the Notice of Decision in the Town Offices.

- (C) The time limit for appeals begins on the day on which the Planning Board decision is filed and first becomes available for public inspection. Per §2.16, this should occur within 72 hours of the Board's decision.

2.18 REVOCATION OF APPROVAL. The Board may act to revoke an approval per the requirements of RSA 676:4-a.

SECTION 3.00: DESIGN STANDARDS

3.01 VEHICLE ACCESS. To ensure safety on the site, and further to protect the safety and capacity of the road network, the following standards are established to control site access:

- (A) Driveway Permit. Each application shall require a State Driveway Permit for driveway access onto a State road (from NH Department of Transportation, Division 6 in Durham), a Town Driveway Permit for driveway access onto a Town road (Public Works Director), or a letter from the appropriate official stating that a driveway permit is not required.
- (B) Number of Driveways. Not more than two driveways onto a public road shall be permitted, and one driveway or a shared driveway may be required by the Board to reduce conflict points in busy road corridors. For non-residential sites, connecting drives shall be provided to adjoining non-residential sites where reasonable and needed, permitting access to those sites without burdening the road network.
- (C) Driveway Design. New and altered driveways shall comply with the following:
 - (1) Driveway widths and right-turn radii shall comply with the standards set forth in the Transportation and Traffic Engineering Handbook (Second Edition, Institute of Transportation Engineers, Prentice-Hall, Englewood Cliffs, NJ, 1982, pages 621-3)). At a minimum, the M-1 and M-2 districts shall be deemed "high-pedestrian-activity areas" for purposes of curve and width determinations.
 - (2) Driveways shall not be located closer than 50' from the edge of the right-of-way of an intersecting street.
- (D) Shared Driveways. Where driveway access from NH Route 108 or NH Route 152 is necessary, the Board may require that such lot be served by a shared driveway servicing several lots in order to reduce the number of curb cuts on the road, thus minimizing the number of conflict points and disruptions to traffic flow. A recorded cross-easement for access shall be required.

- (E) Curbing. The Board may require curbing along the frontage of the site and along the driveway to improve traffic control and safety. Curbing shall be granite.
(note: Amended 11/18/97)
- (F) Stopping Sight Distance. Driveways shall have an all-season stopping sight distance as required in the Transportation and Traffic Engineering Handbook (Second Edition, Institute of Transportation Engineers, Prentice-Hall, Englewood Cliffs, NJ, 1982, pages 590-3), and the requirements of RSA 236:13,III (B) and (C).
- (G) Traffic Impact.
 - (1) No projects shall create a significant reduction in the level of service of affected public roads. Mitigation measures shall be provided as needed.
 - (2) All applications creating 10,000 square feet or more of new non-residential floor space or creating 20 or more new residential units shall include a Traffic Impact Analysis, prepared by a NH licensed Professional Engineer specializing in Civil Engineering. This analysis shall be prepared to meet, at a minimum, the "Guidelines for Traffic Impact Analysis" (by the Strafford Regional Planning Commission, dated July 1986: copy available for viewing at Town Hall). Where the Board is concerned about traffic impact, it may require this analysis for smaller projects.
 - (3) Traffic control signals and signs, turning lanes, pavement widening, eliminating certain turning movements, and other improvements may be required as determined necessary and practical by the Board.

3.02 PARKING. Provision of on-site parking is an important component of the site design. The amount of parking provided must be enough that it prevents excessive demands for on-street parking, but not so much that it wastes land and unnecessarily detracts from the aesthetics of the site and neighborhood. The arrangement must be safe and convenient for users.

- (A) Number of Spaces.
 - (1) In all Zoning Districts except the M-1 and M-2 districts, each site shall provide at least the minimum number of parking spaces for the site, determined as the sum of the following for each use on the site:
 - (a) Residential: 2 spaces per unit; except 1 space per unit for elderly housing or accessory apartment.
 - (b) Retail: 1 space per 200 square feet of gross floor area.

- (c) Office/Business Service: 1 space per 250 square feet of gross floor area.
 - (d) Personal Service: 1 space per 200 square feet of gross floor area.
 - (e) Restaurant: 1 space per 3 seats.
 - (f) Lounge: 1 space per 2 seats.
 - (g) Lodging: 1 space per overnight room.
 - (h) Meeting Rooms: 1 space per 4 seats.
 - (i) Industrial: 1 space per 500 square feet of gross floor area.
 - (j) Automotive Service Station: 4 spaces per service bay.
 - (k) Hospital/Nursing Home: 1 space per 2 beds.
 - (l) Mall: 1 space per 200 square feet of gross floor area.
- (2) The following standards, among others, may be suitable for substitution for the standards given in §3.02(A)(1): Parking Generation (Institute of Transportation Engineers, 2nd Edition, 1987); and Parking (Robert Weant and Herbert Levinson, ENO Foundation for Transportation, Westport, CT, 1990). See §5.01(B) for the specific process of substituting alternative standards.
- (3) In the M-1 and M-2 districts, parking shall be evaluated in a different manner. Typically, on-site parking is insufficient or is lacking completely. However, the downtown currently functions and people do find parking, so rather than establishing a number of spaces required, it is hereby determined that the amount of on-site parking is a base from which to analyze changes in parking demand. New or changing uses shall be evaluated from the perspective of changes in the demand for on-site parking. Proposed changes, which decrease demand, shall be permitted. Proposed changes, which increase demand, shall be permitted only upon provision of additional parking spaces in an amount equal to the increase in parking demand. Such spaces may be provided by one or more of the following means:
- (a) Additional on-site parking spaces shall be provided.

- (b) Off-site parking spaces, located within 500' of the site shall be provided. The Board may increase this distance to 1,000' where the parking is intended for employees rather than customers. Such spaces must be deeded for the use of this site, and less formal agreements shall not be acceptable to the Board. Additionally, the off-site spaces must be shown as being excess spaces, as evaluated by applying the standards of this Regulation. The off-site parking shall be located in a zoning district, which permits the use being applied for, except where the Zoning Ordinance specifies otherwise.
 - (c) If the Town Council establishes the required mechanism, the applicant can contribute to a Town fund for the maintenance and possible future development of additional downtown parking. A fixed dollar amount per parking space shall be established by the Council. This fund shall be a dedicated fund to be used solely for the purposes of creating and maintaining downtown public parking.
- (4) **Shared Parking.** Because different uses in close proximity to one another can effectively and efficiently share parking when their peak parking demands occur at different times of day or on different days of the week, it is often possible to reduce the number of parking spaces and still satisfy the demand. Shared parking is encouraged wherever feasible, and may be required if the Board deems it necessary to accomplish the purposes of this Regulation. Calculations for the reduction in parking shall be consistent with Shared Parking (Urban Land Institute. Washington, DC, 1990). Shared parking may involve multiple uses on a single lot, or may involve multiple uses on two or more lots, provided that in all cases the uses are located within distances as prescribed in §3.02(A)(3)(b).
- (5) **Handicap Parking Spaces.** All sites which provide on-site parking shall provide handicap parking spaces and accompanying access aisles in accordance with Federal law, in particular 23 CFR Part 36, Appendix A, Section 4.1.2(5) (see: Federal Register, Volume 56, #144, July 26, 1991).
- (a) For the convenience of readers, the smaller size parking lot standards are summarized below:

<u>Total Parking Spaces</u>	<u>Minimum That Are Accessible</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4

101 to 150	5
151 to 200	6
201 to 300	7

- (b) One in every eight handicap spaces, but not less than one, shall be designated as "van accessible" and shall be served by an 8' access aisle.
- (c) Each handicap space shall be identified with pavement marking and a sign. Van accessible spaces shall require an additional sign to indicating that it is van accessible. Signs shall be mounted such that they are not obscured by other parked vehicles.

- (6) On-Street Parking. The applicant may be granted permission to utilize nearby on street or other public parking for part or all of the required parking for the site. A parking study must be prepared for the Board to document the suitability of such allowance. The publication entitled Parking referenced in §3.02(A)(2) may be a suitable reference.

(B) Parking Lot Design.

- (1) Dimensional Requirements. Parking stalls and aisle widths shall comply with the following standards:
 - (a) Stall size:
 - [1] Parking stalls shall be large enough to fully contain a rectangle 9' wide by 18' long.
 - [2] Handicap parking stalls shall be large enough to fully contain a rectangle 8' wide by 20' long. Parked vehicle overhangs shall not reduce the clear width of an accessible route. All handicap parking spaces shall be served by a parallel access aisle, which shall be a minimum of 5' wide for standard handicap spaces, and 8' wide for van accessible spaces. Adjacent spaces may share an access aisle.
 - (b) For two-way traffic, all parking stalls shall be at right angles to the aisle, and aisle width shall be a minimum of 25'.
 - (c) For one-way traffic, aisle width shall be related to the angle of the parking spaces, as follows:

Angle: Parking to Aisle Minimum Aisle Width

45 degrees	12'
60 degrees	16'
75 degrees	22'
90 degrees	25'

- (2) Traffic Control Islands. In any parking lot, not more than two aisles shall run generally parallel to one another without separation by a raised, curbed traffic control island which runs parallel to and the full length of the aisles. The Board may require additional traffic control islands to prevent or correct traffic safety problems. These islands shall be a minimum of 10' in width to facilitate trees and other landscaping, which will break up the monotony of the paved area and will provide shade for parked cars in the summer. Orientation of the aisles and islands is addressed in §3.04(A)(2). Specific planting standards are addressed in §3.06.
- (3) Traffic Circulation. The parking lot design shall be such that:
 - (a) there is safe and adequate traffic circulation;
 - (b) all parking spaces can be accessed safely from the aisles, with particular care taken to ensure that spaces near the end of an aisle have sufficient room for backing and turning, and such that cars will not back into a road; and
 - (c) entrances and exits shall provide some channelizing storage space so that cars entering the lot to park do not end up in queues out in the road.
- (4) Curbing shall be provided as needed to control traffic and to direct drainage. Curbing shall be granite in the M-1 and M-2 districts, and shall be concrete elsewhere.
- (5) Adequate directional signage, complying with the Manual on Uniform Traffic Control Devices for Streets and Highways, 1978 by NH Department of Transportation, shall be provided.
- (6) Parking lots, driveways and aisles shall be paved.
- (C) Parking Location. Except in the M-1 and M-2 districts, parking areas shall comply with the setback requirements. In no case shall parking be permitted in the front setback area.

3.03 LOADING. All non-residential sites shall provide off-street loading facilities sufficient to meet the needs of the use. The loading facility shall be located and designed so that delivery vehicles can be parked completely out of the right-of-way to minimize adverse impacts on traffic flow on adjacent streets. The loading area shall not obstruct on-site traffic flow, but may allow for temporary alternative use of a reasonable number of on-site parking spaces.

3.04 PEDESTRIAN, BICYCLE AND TRANSIT AMENITIES. Adequate provisions shall be made to accommodate pedestrians, bicyclists and transit service.

(A) Pedestrians.

- (1) All sites shall have sidewalks from the main entrance to the sidewalk and to parking area(s), as applicable.
- (2) In large parking lots with multiple aisles, driving aisles shall be oriented generally perpendicular to the building to reduce the number of traffic aisles which pedestrians must cross to reach the building. Sidewalks in the middle of aisles may be required if appropriate.
- (3) The Board may require that sidewalks be installed in front of any lots fronting on the road in the B-1 District. (note: Added 11/18/97)
- (4) The Board may require that sidewalks be installed along Route 152 in front of any lots fronting on the road between its intersection with Route 108 to the east and to its crossing of the Piscassic River to the west. (note: Added 11/18/97)

(B) Bicycles. The Town desires to encourage bicycling and the following shall apply:

- (1) All sites shall provide lockable bicycle parking/storage. The number of bicycles, which must be facilitated, shall equal not less than 5% of the site parking demand as calculated in §3.02, but shall not be less than two.
- (2) All non-residential sites with 20,000 square feet or more of floor space may reduce the provision of on-site parking by 5% by providing shower facilities and bicycle parking/storage for employees choosing to bicycle to work.

(C) Transit. The Town desires to encourage transit and the following shall apply:

- (1) If a transit stop is located within 500 feet of the site, the Board may grant a 10% reduction in the provision of on-site parking for newly developed sites.

- (2) Any site, which contains 25 or more residences or 20,000 square feet or more of non-residential floor space, shall contact the manager of the COAST system to determine if facilities or design provisions to accommodate transit service to the site are necessary now or in the near future. Future expectations shall be based on adopted capital and operations plans for COAST and the Seacoast Metropolitan Planning Organization. The applicant shall provide such needed facilities and design changes, and shall receive the parking reduction granted in §3.04(C)(1).

3.05 SNOW REMOVAL. Snow removal shall be reviewed for all sites, and the general plan for snow removal shall be indicated in a note on the plat. Areas suitable for snow storage shall be designated on the plat, and removal from the site may be necessary if insufficient storage area is available. Landscaping in the snow storage area shall be such that it can withstand the snow pile. Snow shall not be pushed onto adjacent lots or right-of-ways without the owner's consent.

3.06 LANDSCAPING. Every site shall comply with the following standards in order to: enhance site design; enhance privacy; separate, screen and shield potentially conflicting land uses or abutters from undue impact; reserve a portion of the lot to remain undeveloped, permeable and vegetated; control excessive storm water runoff; prevent soil erosion and pollution of water bodies; reduce heat, glare and dust; enhance the Town's aesthetic qualities; and help integrate the built environment with the natural environment.

(A) General Standards. The following general standards shall apply to all sites:

- (1) Suitable vegetative ground cover shall be established and maintained on the finished site to ensure soil stability. Shrubs, flowerbeds or other vegetative landscaping may be substituted for lawn areas without municipal review. Landscaping shall be used to enhance the design and aesthetic quality of the site, and to screen parking areas, dumpsters and other eyesores.
- (2) Landscaping shall not obstruct the line of sight, nor create other hazards for vehicular traffic, pedestrians, or bicyclists.
- (3) Trees are of great importance to the Town because they contribute greatly to the objectives of this Landscaping section. Trees shall be provided as follows:
 - (a) In all districts except the M-1 and M-2 districts, either newly planted or existing trees shall be provided at the rate of one tree per 500 square feet of disturbed area. In the M-1 and M-2 districts, trees shall be required as can reasonably be provided to enhance the site. It is recognized that the high ratio of building area to lot size

traditionally encountered in these two districts may reduce the ability to provide trees on sites.

- (b) To the extent possible, trees shall be located within and around the parking areas to break up the monotony of paved expanses.
- (c) Newly planted trees shall have a caliper of at least 3" at a point six inches above the top of the root ball.
- (d) Suitable hardwood species shall be required unless otherwise specified by the Board. Softwoods may be preferable for buffering purposes. Hardwoods are more suitable in and around traveled ways since they are less prone to causing icing problems during the winter.
- (e) Credit may be granted for retention of existing trees. Trees with a caliper of at least 12" but less than 24" shall be credited as three trees, and trees with a caliper of 24" or more shall be credited as six trees. Existing trees to be credited as landscaping shall be suitably protected during site construction. The method of protection shall be placement of a snow fence in a perimeter around the trunk of the tree, a minimum of four feet from the trunk. Pavement shall be placed no closer than four feet from the trunk of the tree.

(B) Buffers.

(1) Buffer requirements:

- (a) In the M-1 and M-2 zoning districts, no buffers shall be required.
- (b) In the B-1 and B-2 zoning districts, 10' buffers shall be required where the site abuts an adjacent residential property or other property for which a buffer is deemed by the Board to be appropriate.
- (c) In all other zoning districts, the area between the property lines and the side and rear setback lines, but not including any area within a road setback, shall be considered a buffer area.
- (d) Telecommunications facilities shall be landscaped with a buffer of suitable vegetation that effectively screens the view of the tower compound from abutting property. The minimum standard buffer

shall consist of a landscaped strip ten (10) feet wide outside the perimeter of the tower compound. Maintaining existing (natural) vegetation is preferred.

- (2) The buffer area shall be suitably vegetated and landscaped. This area shall not be used for outdoor storage or display, parking, or other such uses. Driveways, sidewalks and other such provisions as are considered reasonable by the Board may be permitted to cross the buffer area. Where abutting properties would otherwise be subject to undue impact, the Board may require specific plantings and/or an expanded buffer area to screen specific impacts.

3.07 DRAINAGE. All developments shall make adequate provisions for storm water treatment.

- (A) Connection to the municipal storm drainage system shall be required if available within 100 feet of any boundary of the property, or as otherwise determined necessary by the Board.
 - (1) The system shall be designed and constructed in accordance with standards and specifications of the Town of Newmarket.
 - (2) Where such facilities are not available at the time of application but will become available in the future, as indicated by inclusion in the Capital Improvements Program, the applicant shall install a municipal storm drain system, ready for connection to the municipal system at the time of its expansion, and shall provide for temporary control of drainage in the interim period.
 - (3) Storm water runoff shall be carried away in a subsurface piped storm sewer system. Such drainage facilities shall be located in the street rights-of-way where feasible. Where topography or other conditions are such as to make this impractical, perpetual unobstructed easements for future maintenance, repair and upgrade of the system shall be provided across all properties. Such easements shall be 25' or more in width, and shall have satisfactory access to the road. Drainage easements shall be carried from the road to a natural watercourse or other drainage facility.
- (B) Lacking connection to the municipal storm drainage system, the site shall be designed with provisions for retention and gradual release of storm water. This shall include provisions for upgrading the existing drainage system if it is inadequate. All additional storm water and runoff which results from the proposed development shall be retained on-site and shall not drain onto adjacent properties, roads or waterways in an amount which exceeds predevelopment levels unless

appropriate drainage easements are obtained. Oil/grease separators may be required for parking lots of sites in close proximity to the Lamprey River, Piscassic River or Great Bay, or in other areas where water contamination is of concern.

- (C) Drainage plans and a written report, prepared and certified by a licensed NH Professional Engineer specializing in Civil Engineering, shall be submitted with the application. The drainage plan shall include a maintenance program to be followed by the site owner, with specific required actions called out by year. Notice shall be provided to the Code Enforcement Officer annually as to compliance with the maintenance program.
- (D) Drainage facilities shall be designed to accommodate a 25-year storm event. A culvert or other such component shall be large enough to accommodate potential runoff from its entire upstream drainage area. On-site retention or detention facilities may be required to prevent overloading of existing downstream facilities, or improvement to the downstream facilities may be required.

3.08 WATER SUPPLY. All sites shall provide adequate water supply for consumption and fire protection. Fire safety is also addressed in §3.17.

- (A) Municipal Water Supply. Compliance with the Newmarket Water System Ordinance. In the absence of such a code, connection to the system shall be required if distribution lines are located within 100' of any part of the frontage of the lot, and such connection shall conform with all requirements established by the Public Works Director. (note: Amended 11/18/97)
- (B) Non-Municipal Water Supply. In areas outside of the municipal water supply service area, provisions shall be made for on-site water supply or connection to a community water supply system. The well location and its protective radius, if required by the State, shall be indicated on the plat. All community water supply systems and facilities shall be designed by a NH licensed Professional Engineer specializing in Civil Engineering.
- (C) All sites shall have sufficient water supply to provide for consumption and fire protection.

3.09 SEWAGE DISPOSAL. All sites shall provide for adequate and sanitary disposal of sewage.

- (A) Municipal Sewer Service Area. Compliance with the Newmarket Sewer Use Ordinance shall be required. In the absence of such a code, connection to the system shall be required if collection lines are located within 100' of any part of the frontage of the lot, and such connection shall conform with all requirements

established by the Public Works Director. (note: Amended 11/18/97)

- (B) In areas outside of the municipal sewer service area, provisions shall be made for on-site sewage disposal. A State approved disposal system design is required prior to final approval, and the approval number shall be indicated on the plat. The system shall be installed and functioning prior to the issuance of the Certificate of Occupancy.

3.10 UTILITIES. The location and design of all utilities on the site shall be shown on the plat, subject to the following:

- (A) Multi-Family Residential Sites. To enhance the design and quality of multi-family sites, all utility systems shall be placed underground in conformity with the terms and specifications of the utility companies involved. This shall apply to all new multi-family development, as well as any increase in the number of units of an existing multi-family development.
- (B) Non-residential Sites. To encourage non-residential development in Newmarket, utility systems may be located above ground or underground, as desired by the property owner.

3.11 ADA COMPLIANCE. Adequate provisions shall be made to ensure compliance of sites with the Americans with Disabilities Act of 1990 (ADA). Additional information regarding handicap parking is provided in §3.02(A)(5).

- (A) Curb ramps shall be provided as necessary.
- (B) Access aisles adjoining wheelchair accessible parking spaces shall be paved flush to the ground, and the pavement shall extend all the way to the nearest wheelchair accessible entrance. Such parking spaces shall be located adjacent to wheelchair accessible entrances. Wherever practical, the main entrance shall be wheelchair accessible.
- (C) It is recommended, though not required, that a "drop-off" area be located at wheelchair accessible entrances.
- (D) Where necessary, wheelchair ramps shall be provided, with a slope not exceeding one foot of rise per 12 feet of run, and a width as required by ADA.
- (E) The slope of a wheelchair accessible parking spaces and adjoining access aisles shall not exceed one foot of rise per 50 feet of run.

3.12 FLOODPLAIN. All site plans, which contain any area within the 100-year floodplain,

identified as Special Flood Hazard Areas in the "Flood Insurance Study for the Town of Newmarket, N.H." together with the associated Flood Insurance Rate Maps and other maps, shall meet the following requirements:

- (A) The application shall comply with the Floodplain Development Overlay District.
- (B) The 100-year flood elevation shall be shown on the plat.
- (C) Site plan proposals, including their utilities and drainage, shall be located and designed to be consistent with the need to minimize flood damage.
- (D) All public utilities and facilities, such as sewer, electrical and water systems, shall be located and constructed to minimize or eliminate potential flood damage.
 - (1) New and replacement water systems (including on-site systems) shall be located, designed and constructed to minimize infiltration of flood waters and avoid impairment.
 - (2) New and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (E) Adequate drainage shall be provided to reduce exposure to flood hazards.
- (F) Within the altered or relocated portion of any watercourse, the applicant shall submit to the Board certification, prepared by a NH licensed Professional Engineer specializing in Civil Engineering, demonstrating that the flood carrying capacity of the watercourse has been maintained.

3.13 PRESERVATION OF NATURAL FEATURES. To the extent practical, natural features shall be preserved on the site. Where appropriate, areas shall be left undisturbed to minimize impacts on the site and to abutters. Excessive cutting, filling and grading should be avoided. Construction methods may be restricted by the Board where necessary to protect the environment or significant resources on the site. All cut trees, debris, rubbish, junk and other waste materials shall be removed from the site for lawfully disposal. On-site stump disposal may be permitted by the Board if it will not interfere with the proper function of the site, and if State standards are met.

3.14 SEDIMENT AND EROSION CONTROL.

- (A) As pertain to this Regulation, a State Site Specific permit is required for the following:
 - (1) any project involving the dredging, excavation, filling, mining, transporting of forest products, construction, earth moving or other significant alteration

of the characteristics of the terrain as defined in Env-Ws 415.02 that will occur in or on the border of the surface waters of the State.

- (2) construction, earth moving or other significant alteration of the characteristics of the terrain as defined in Env-Ws 415.02 when a contiguous area of 100,000 or more square feet will be disturbed, or 50,000 or more square feet within 250' of public waters will be disturbed (except that 1st through 4th order streams are excluded).

- (B) For sites which do not require a Site Specific permit, the application shall document reasonable controls provided to prevent erosion on the site during construction, following construction but before permanent vegetation is re-established, and on the finished site. Total suspended solids leaving the site should be limited to near pre-development levels to aid in the protection of the Great Bay estuary.

3.15 SOLID WASTE DISPOSAL AND RECYCLING. All sites shall provide adequate facilities for both recycling and disposal of solid waste. All such facilities shall be screened from sight from abutting properties and streets to the extent reasonably possible by means of a fenced or landscaped enclosure. The types of facilities and their enclosure shall be adequately detailed on the plat.

3.16 OUTDOOR LIGHTING. The outdoor lighting of sites shall be designed to prevent off-site disturbance, nuisance, hazard, or other adverse impacts on the nearby properties or roads. All outdoor light sources shall be designed, directed and/or shielded such that the nighttime lighting is primarily contained on the site to shield abutting properties and roads. All outdoor lighting shall be located on-site, and the mounting of outdoor lighting shall not exceed 20' unless the Board decides that a greater height better serves the purposes of this Regulation. (**Amended June 11, 2002**).

1. Regulation of non-residential and multi-family dwelling unit lighting.

These regulations are intended to reduce the problems created by improperly designed and installed outdoor lighting. This section shall apply to non-residential development and . This section is intended to eliminate problems of glare, minimize light trespass, obtrusive light, protect the quality of the New Hampshire night sky, Newmarket's rural character, and conserve energy and resources. These concerns are balanced while maintaining safety, security and productivity by establishing regulations which limit the area that certain kinds of outdoor-lighting fixtures can illuminate and by limiting the total allowable illumination of lots located in the Town of Newmarket.

2. Definitions: For the purposes of this Regulation, terms used shall be defined as follows:

Cut-off Angle (of a luminaire) - The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.

Direct Light: Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Fixture: The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Flood or Spot light: Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Foot-candle: A unit of illuminance amounting to one lumen per square foot. A measure of light falling on a given surface. One foot-candle is equal to the amount of light generated by one candle shining on a square foot surface one foot away.

Fully Shielded - A fully shielded luminaire is a luminaire constructed or shielded in such a manner that all light emitted by the luminaire, either directly from the lamp or indirectly from the luminaire, is projected below an angle of 20 degrees below the horizontal plane through the luminaire's lowest light emitting part as determined by photometric test or certified by the manufacturer.

Glare: Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

Height of Luminaire: The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

Illuminance - The quantity of light arriving at a surface divided by the area of the illuminated surface, measured in foot-candles.

Lamp: The component of a luminaire that produces the actual light.

Light Trespass: The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen: A measure of light energy generated by a light source. One footcandle is one lumen per square foot. For the purposes of this Regulation, the lumen-output values shall be the INITIAL lumen output ratings of a lamp.

Luminaire: This is a complete lighting system, and includes a lamp or lamps and a fixture.

Millyard Lighting Theme: A thematic lighting installation that matches, in general, the lighting scheme currently installed at the Newmarket Mills. Lighting fixtures consistent with this theme shall include free-standing and/or building mounted lighting fixtures that are hooked shaped, with downward facing luminaries that may or may not have decorative scroll-work along the pole. Similar lights have been installed at the Newmarket Public Library, Elm Street and can be found in the Newmarket Downtown Vision Plan.

Outdoor Lighting: The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Partially shielded - Shall mean outdoor light fixtures shielded or constructed so that no more than ten percent of the light rays are emitted by the installed fixture at angles greater than 20 degrees below the horizontal plan, and shall not extend above the horizontal plane, as certified by a photometry test report.

Temporary outdoor lighting: The specific illumination of an outside area of object by any man-made device located outdoors that produces light by any means for a period of less than 7 days, with at least 180 days passing before being used again.

Uplighting - Any light source that distributes illumination above a 90-degree horizontal plane.

3. General Lighting Requirements:

- a. All lighting in the Town of Newmarket is required to have full-cutoff shielding, except for that portion of lighting installation that is consistent with the Millyard Lighting Theme.
- b. Up-lighting by any method is prohibited; however, the Planning Board may allow limited use of upward landscape lighting on a case by case basis.
- c. Non-cutoff wallpack type fixtures are prohibited.

4. Control of Glare – Luminaire Design Factors:

- a. Any luminaire with a lamp or lamps rated at a total of MORE than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of MORE than 900 lumens, shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire.

- b. Any luminaire with a lamp or lamps rate at a total of MORE than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of MORE than 900 lumens, shall be mounted at a height equal to or less than the value $3 + (D/3)$, where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire may not exceed 25 feet.
 - c. The luminaire's maximum illuminance shall not exceed the minimum illuminance recommended for that purpose as defined in the most recent "Illuminating Engineering Society Lighting Handbook/References & Applications."
 - d. Installation of lighting fixtures consistent with the Millyard Lighting Theme shall be exempt from section (c).
5. Submission of Plans: The submission shall contain but shall not necessarily be limited to the following:
- a. Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;
 - b. Description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required);
 - c. Photometric data, such as that furnished by manufacturers, or similar showing the angle of cut off or light emissions.
 - d. A visual impact photometric plan that demonstrates both light coverage and light spillage resulting from the proposed lighting plan.
 - e. Additional Submission. The above required plans, descriptions and data shall be sufficiently complete to readily determine whether compliance with the requirements of this regulation are met. If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so provided that these tests shall have been performed and certified by a recognized testing laboratory.

(5) Exceptions:

- (a) Any luminaire with a lamp or lamps rated at a total of 1800 lumens or LESS, and all

flood or spot luminaires with a lamp or lamps rated at 900 lumens or LESS, may be used without restriction to light distribution or mounting height, except that if any spot of flood luminaire rated 900 lumens or LESS is aimed, directed, or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.

- (b) Luminaires used for public-roadway illumination may be installed at a maximum height of 25 feet and may be positioned at that height up to the edge of any bordering property. Proposed streetlights or replacement of existing streetlights shall be fully shielded.

(6) Prohibitions:

- (a) Mercury Vapor Lamps Fixtures and Lamps. The installation of any mercury vapor fixture or lamp for use as outdoor lighting is prohibited.
- (b) Laser Source Light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal is prohibited.
- (c) Searchlights. The operation of searchlights for advertising purposes is permitted by permit issued by the building inspector.
- (d) Neon. Neon lighting shall be limited to signage use.

3.17 SAFETY REVIEW.

- (A) A letter describing each application shall be sent by the Applicant to the Police Chief and to the Fire Chief, alerting them of the pending application. Approval of the chiefs is not required, except as provided below. The Board may require modification of the site design to enhance public safety.
- (B) For a site which will receive, handle, store, process, sell or discharge hazardous or toxic materials, written approval of the Fire Chief shall be required. Further, no interior floor drain shall be directed to any stream, storm drain or septic system, or directed into a sanitary sewer without sufficient on-site treatment.

3.18 CONSTRUCTION STANDARDS. It shall be the responsibility of the Professional Engineer designing the site to specify adequate construction standards for all site improvements. Such specifications shall be provided to the Board for its review and approval.

3.19 SECURITY FENCING. Telecommunications facilities shall be enclosed by appropriate security fencing not less than 6 feet in height, and shall be equipped with an appropriate anti-climbing device.

3.20 AESTHETICS. This section applies to all telecommunications facilities.

- (A) Towers shall either maintain a galvanized steel finisher, subject to any applicable standards of the FAA, or be painted a neutral color, to reduce visual obtrusiveness.
- (B) At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and previously developed environment. These buildings and facilities shall also be subject to all other Site Plan Review Regulation requirements.
- (C) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure to make the antenna and related equipment as visually unobtrusive as possible. Placement of the antenna and supporting electrical and mechanical equipment within an existing structure, such as a church steeple, is preferred.
- (D) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

3.21 ARCHITECTURAL/AESTHETIC REVIEW. It is important to the economic success of Newmarket that the appearance of the town be perceived as an attractive commercial environment, which reflects and compliments its heritage. The architecture of Newmarket spans several periods of design in New England, including some 18th century, 19th century, and early 20th century structures. It is important to continue to allow diversity of building designs and architectural styles, which blend well with the buildings from these periods.

It is also important to avoid economic hardship and impose unreasonable standards on existing building owners who wish to make modifications to their structures. This regulation applies only to structures located along Route 108.

- (A) Design Criteria. New building designs will be evaluated using the following factors. Design criteria are also provided here to assist in this evaluation.

- (1) scale, proportion, height and area of a building;
 - (2) type, shape, and pitch of roof;
 - (3) size and spacing of windows, doors and other openings;
 - (4) exterior materials and colors;
 - (5) styling of front facade;
 - (6) architectural details and features.
- (B) The following criteria are to be followed not to specifically dictate one particular architectural style, but rather to provide guidance to allow structures, which are consistent with one of several New England styles present in town.
- (1) Avoid unbroken expanses of walls. Architectural treatment shall be provided for blank building faces, which are exposed to public view. Such treatments may consist of varying wall setbacks, changing materials or material colors and textures, or other architectural detailing.
 - (2) Avoid long unbroken expanses of rooflines through the use of dormers, skylights, chimneys, brick firebreaks, and changes in ridgeline.
 - (3) Use architectural features and details, such as cornices, pediments, columns, pilasters, corner boards, cupolas, skylights and arches to create interesting buildings.
 - (4) Door and window openings shall be proportional to the facade length and height. Transom lights are encouraged where appropriate to style.
 - (5) All rooftop mechanical equipment shall be screened from public view. This may be accomplished by a peaked, semi-peaked, or mansard roof.
 - (6) Structures shall be compatible with the height, depth, and window proportions of surrounding buildings.
 - (7) Roof design shall be consistent with the overall design of the building. For example, a clapboard or brick building of the late 18th century or early 19th century design shall have a peaked roof, while a brick or stone building representing late 19th century architecture may have either a peaked, flat or mansard roof.
- (C) All exterior surfaces visible to the public shall be covered with high quality material that is durable and easy to maintain. No unclad, plain masonry block construction or corrugated metal may be used when visible from any public space, adjacent

residential area or roadway. The following design features are acceptable when their use is consistent with the overall architectural style of the project. Other materials may be considered acceptable if the board determines they contribute to the overall aesthetics of the project.

- (1) Roofs.
 - (a) metal, copper, or colored standing seam;
 - (b) shingles of asphalt, fiberglass or fire-treated wood;
 - (c) slate or composite material of slate appearance.
- (2) Walls.
 - (a) wood clapboards (painted or stained), or vinyl;
 - (b) red brick;
 - (c) granite, marble, or stone (natural or finished).
- (3) Windows.
 - (a) multi-paned windows or groupings (removable mullions are acceptable);
 - (b) large paned windows, consistent with late 1800s or early 1900s architecture are acceptable on the ground floor;
 - (c) etched, beveled, sandblasted or stained glass;
 - (d) other window types as architecturally appropriate or application specific.
- (4) Trim.
 - (a) wood (painted or stained);
 - (b) anodized aluminum or vinyl.
- (5) Color.
 - (a) no specific color requirements are mandated; however, the use of day glow colors or garish corporate logos masquerading as painting are discouraged.
- (6) Fencing.
 - (a) all fencing installed in the B-1 and M-2 District along Route 108 shall be of natural (wood) or architectural materials such as ornamental metal fencing.
 - (b) the installation of chain link fencing in these areas shall be prohibited.

SECTION 4.00: PLAT STANDARDS

All plats submitted for Major Review shall provide all information and shall comply with all

standards set forth in this Section.

4.01 SIZE. Full size plat sheets shall measure 22" tall by 34" wide and reduced size plats shall measure 11" tall by 17" wide or 8 1/2" tall by 11" wide.

4.02 MATERIAL AND NUMBER OF COPIES. The applicant shall provide three or more paper copies of each full size plat sheet and one paper copy of each reduced size plat sheet. All sheets to be recorded shall be printed on mylar or other material as specified by the Rockingham County Registry of Deeds.

4.03 BASIC INFORMATION. All plat sheets shall contain the following:

(A) Title Block. The title block shall indicate:

- (1) project name;
- (2) owner's name;
- (3) applicant's name, if other than owner;
- (4) tax map and parcel number; and
- (5) name and address of the person or company which prepared the sheet.

(B) Scale. The scale of the plan shall be given in both text and graphic form.

(C) North Arrow.

(D) Dates. Each sheet shall indicate the date of original preparation, and the date and nature of each subsequent revision.

4.04 SURVEY PLANS. The plat sheet(s) which provides the required boundary or other survey information shall be certified as to the accuracy of the plan, and shall be stamped and signed by a N.H. Licensed Land Surveyor (LLS).

4.05 ENGINEERING PLANS. The plat sheet(s), which provides any required engineering information, shall be stamped and signed by a N.H. licensed Professional Engineer (PE) specializing in Civil Engineering or other specialization as appropriate to the nature of the work.

4.06 APPROVAL SHEETS. The Board will sign both a mylar (for recording) and a paper (for Town files) copies of the approval sheets. The plat sheet(s) on which the Board will indicate approval shall have:

- (A) a 2" tall by 4" wide empty space reserved for the Board's written endorsement, which shall be indicated by a municipal approval stamp and signature of the Chairman of the Board;
- (B) a note indicating the title and most recent date of revision for all supplemental plan sheets, if any; and
- (C) a locus map showing the location of the property within the municipality.
- (D) notes providing the following information:
 - (1) indication of all existing and proposed easements of record, covenants and deed restrictions.
 - (2) indicate the zoning district, including applicable overlay districts.
 - (3) area of the lot.
 - (4) list of waivers and substitutions granted by the Board.
 - (5) any other development restrictions, limitations or requirements.

4.07 MULTIPLE SHEETS. Where the size of the site and the scale of the plat require multiple sheets, match lines shall be provided.

4.08 SCALE. A scale of 1" equals 20' shall be used in all cases.

4.09 AREA OF COVERAGE. In the case of an application involving a lot larger than the site being developed, the applicant shall provide a scale drawing of the site in relation to the overall lot boundaries, at a scale of 1" equals 100'. Only that portion of the property directly relevant to the application needs to be shown on the detailed plans.

4.10 SITE INFORMATION. The set of plans submitted shall provide the following information about the site:

- (A) Boundary survey of the lot, prepared by an LLS, indicating:
 - (1) distances, deflection angles, radii, arc lengths, control angles, monument locations, and other necessary survey data;
 - (2) the names of all abutters, including map and parcel numbers;
 - (3) roads, right-of-ways, intersections and driveways within 50' of the lot;

- (4) location and nature of easements of record, deed restrictions and covenant; and
 - (5) references to deeds, earlier surveys, and other pertinent information as determined by the LLS.
- (B) Existing conditions on the site, prepared by an LLS, showing:
- (1) contours at 2' intervals, referenced to the National Geodetic Vertical Datum, and including identification of two or more temporary benchmarks established on the site, located where they will not be disturbed by proposed construction.
 - (2) delineation of hydric soils on the entire lot shall be required. This work shall be conducted by a NH Licensed Soil Scientist. Additionally, soil types and boundaries per the Rockingham County Soil Survey shall be indicated. Poorly and very poorly drained soils shall be clearly labeled as such. In locations where the boundary of such soils is important in evaluating the proposed design of the site, the Board may require the applicant to provide a high intensity soil survey conducted by a NH Licensed Soil Scientist.
 - (3) existing buildings in plan view, with description of uses and sizes.
 - (4) approximate location of buildings, in plan view, within 50' of the site.
 - (5) all site improvements with appropriate details, including but not limited to driveways and traffic aisles, parking, loading, bicycle facilities, sidewalks, solid waste facilities, wells, septic systems, utility locations, and drainage facilities.
 - (6) surface waters, stonewalls, and other significant natural and man-made resources.
 - (7) Notes. Notes shall provide the following information:
 - (a) indication of all existing easements of record, covenants and deed restrictions.
 - (b) indicate the zoning district, including applicable overlay districts.
 - (c) area of the lot.
 - (8) Municipal and zoning district boundaries.

- (9) Setback lines.
 - (10) Elevation of 100-year floodplain or the extent of the 100-year floodplain as otherwise defined by FEMA, with all first floor elevations provided for existing and proposed buildings wholly or partially within the 100-year floodplain.
- (C) Proposed site plan, prepared by a PE specializing in Civil Engineering, showing:
- (1) contours at 2' intervals.
 - (2) buildings in plan view, with description of uses and sizes.
 - (3) design of driveways, traffic aisles, loading areas, and parking areas, indicating dimensions, striping, signage, and curbing details.
 - (4) parking calculations, including calculations for the existing site if appropriate, for total demand and for wheelchair accessible parking.
 - (5) pedestrian, bicycle and transit amenities.
 - (6) snow storage areas.
 - (7) landscaping.
 - (8) drainage facilities and paths of drainage flow.
 - (9) location of proposed utility, water supply and sewage disposal systems.
 - (10) wheelchair access facilities.
 - (11) elevation of the 100-year floodplain, and first floor elevation for each building wholly or partially within the 100-year floodplain.
 - (12) solid waste disposal and recycling facilities.
 - (13) outdoor lighting, including type, design, mounting height, shielding and other specifications as needed.
 - (14) notes providing the following information:
 - (a) indication of all easements, covenants and deed restrictions.
 - (b) indicate the zoning district, including applicable overlay districts.

- (c) area of the lot.
 - (d) calculation of impervious area on the lot.
 - (e) plan for snow removal.
 - (f) list of waivers and substitutions.
- (15) other information as required to demonstrate compliance with this Regulation.
- (D) Elevation view of the front of any building to be altered or constructed.

SECTION 5.00: ADMINISTRATION

5.01 WAIVERS OR SUBSTITUTIONS. The Board may waive any portion of this regulation in accordance with RSA 674:44 III (e). However, due to the probable violation of the purpose and intent of this regulation it is unlikely that waivers for any portion of Sections 1.00, 2.00, 5.00, or 6.00 will be granted. (note: Amended 11/18/97)

- (A) Waivers. The Board may grant a waiver of any section of this Regulation in accordance with the following (note: Amended 11/18/97):
- (1) The applicant shall provide a written request for each waiver. The request shall specify the section to be waived, the extent of the waiver, and the justification. Where multiple waivers are being requested, a separate request shall be provided for each.
 - (2) In evaluating the request, the Board may grant the waiver if it finds that, in the opinion of the Board, granting of the waiver:
 - (a) shall not be detrimental to the public health, safety or general welfare;
 - (b) shall not be injurious to other parties; and
 - (c) shall be consistent with the purpose and intent of this Regulation.
 - (3) The Board may condition any waiver granted to secure the objectives of this Regulation.
- (B) Substitutions. In the event that an alternative Design Standard (§3.00) is provided,

the Board may permit substitution for the Town design standard. Such substitution shall be permitted when, in the Board's opinion, the alternative standard is independently and scientifically derived, is generally accepted by the planning community, and would better accomplish the purpose and intent of this Regulation for this case. The request for a substitution shall be made in writing, and a complete copy of the alternative design standard shall be provided to the Town for its records (i.e.: provide applicable books, articles, etc). Substitution shall require a formal motion of the Board, and the minutes of the meeting should indicate the Board's reasoning for future reference. No waiver is required for design standard substitutions.

5.02 TECHNICAL ASSISTANCE. In the event that the Board requires technical assistance and/or special studies to adequately and properly evaluate an application or perform subsequent inspections, it may secure such professional assistance. This may include technical assistance, special studies, legal review of aspects of the application, which are unique or specific to this case (but excluding general legal advice), and other such assistance. The applicant shall reimburse the Town for the cost of such assistance, but the individual or company engaged shall work for, and report directly to the Town. Though not always the case, the standard practice for the Board at the time of writing is to have a hired planner, and a consulting professional engineer if needed, review all applications submitted.

5.03 RECORDING APPROVED PLANS. Upon stamping and signing an approved final Major Review plan, the Town shall deliver the signed mylar copy to the Rockingham County Registry of Deeds to ensure that there is no tampering with the plans prior to recording, and to ensure that there is no delay in recording the plan such that the delay would extend the protection period under RSA 674:39. A signed paper copy of Major Review plans, or a signed Minor Review site sketch, shall be retained in the Town files only.

5.04 FINANCIAL SECURITIES. Financial securities may be required by the Planning Board where circumstances dictate, but in general are not required for Site Plan Review applications. When required, the applicant shall be required to provide financial securities for site improvements in accordance with the following:

- (A) Use. Suitable financial securities shall be provided to ensure that the applicant will complete all work, except street work and utility installation, in accordance with the plans. In lieu of the completion of street work and utility installation, the planning board may require suitable financial security to ensure that the applicant will complete all street work and utility installations in accordance with the plans. The securities, if called by the Town, may be used to stabilize the site, ensure site safety, minimize any adverse impacts on the neighborhood and Town, complete the work, and prepare the as-built plans. In the event that the security is called by the

Town, the Planning Board may schedule and hold a public hearing to consider revocation of the approval per the process of RSA 676:4-a. The Board may request suspension of any building permit, withholding or revocation of the Certificate of Occupancy, and/or other appropriate actions until the matter is resolved. (note: Amended 11/18/97)

- (B) Amount. The amount shall not exceed the sum of: 50% of the cost of all ~~site~~ work, excluding the building and site work covered by other financial securities held by other governmental entities (such as for State driveway permits); plus 100% of the cost of all work to be completed after the issuance of the Certificate of Occupancy.
- (C) Form of Security and Associated Agreements. The form of financial security, and all associated agreements or stipulations shall be negotiated with the Town Administrator. At a minimum, the Town shall accept cash, a joint passbook account, and an irrevocable letter of credit. The Town shall have full access to these securities in the case that the Town must utilize them to secure the purposes of this section.
- (D) Other Requirements. The entire amount of the financial security shall be provided up front, and if requested by the applicant, there shall be a provision for reducing the amount of the security as work is completed. The Town shall retain sufficient security at all times to ensure that it can fulfill its purposes. The Town retains the right to apply reasonable cost escalation factors to protect against inflation. The Town retains the right to specify time deadlines for the completion of any or all improvements. The Town retains the right to require a Site Improvement Agreement to document the exact conditions and stipulations of the financial security.

5.05 APPROVAL REQUIRED. Prior to land clearing, site preparation, construction or any other such activity may begin on a site, and before any municipal permit for such activity may be issued, approval under this Regulation is required. All activity on the site shall be in accordance with the approval.

5.06 CERTIFICATE OF OCCUPANCY. Every approval pursuant to this Regulation is granted subject to the issuance of a Certificate of Occupancy (CO) upon completion of building construction and site work. Issuance of the CO shall be the responsibility of the Code Enforcement Officer.

- (A) Use of a newly developed site prior to the issuance of the CO shall be prohibited. Where the use of a site is being changed or expanded, continuation of the existing use of the site shall be permitted as reasonable until the CO is issued for the changed or expanded use.

- (B) The CO may be issued with the condition that certain site improvements be completed at a specified later date where weather or other reasons outside the applicant's control would cause obvious problems. Where the CO is conditioned on subsequent work, the Town may require the applicant to provide financial securities per §5.04.
- (C) Inspections. Municipal water, sewer and storm water inspections shall be required as specified by the Public Works Director. A final site inspection by the Code Enforcement Officer shall be required prior to the issuance of the CO, and where an as-built plan is required per the approval, this plan shall be provided prior to the final site inspection.

5.07 AS-BUILT PLANS. The Board may require as-built Site Plans to ensure that a site is developed in accordance with the approved plans and to accurately document the location of underground utilities. All such as-built plans shall meet the current standards as set forth by the N.H. Joint Board of Licensure and the N.H. Land Surveyors Association.

- (A) With respect to ensuring compliance, the Board shall require such plans where the extent and/or complexity of site construction, or the proximity of the site cause reasonable concern about compliance. Such as-builts shall be provided to the Code Enforcement Officer prior to the issuance of a Certificate of Occupancy.
- (B) With respect to documentation of underground drainage systems and utilities, all sites which connect to municipal or community utilities, including water, sewer, and storm water drainage, shall provide as built plans for all buried water, sewer, storm water drainage, electricity, telephone, and other underground pipes, lines and other such items. The as-built plans shall document the location of such pipes and lines from their origin to their connection with municipal, community, or utility company systems.

5.08 ENFORCEMENT. The Code Enforcement Officer, or other duly appointed designee of the Town Administrator, shall be responsible for enforcement.

5.09 COMPLIANCE WITH OTHER CODES. The Site Plan Review Regulations in no way relieve an applicant from compliance with the Zoning Ordinance, the Subdivision Regulations, or any other code adopted by the Town or any other governmental unit. In the event that the requirements of this Regulation are in conflict with the other codes, the more stringent shall apply. This is also required by RSA 676:14.

5.10 SAVING CLAUSE. If any clause, portion or section of this Regulation is found invalid by a court of competent jurisdiction, this finding shall not invalidate the remainder of this Regulation.

SECTION 6.00: APPLICATION FORMS & CHECKLISTS

These separate documents are available online at www.newmarketnh.gov and the Newmarket Planning Office.